

HOUSE BILL 87
By Overbey

AN ACT to amend Tennessee Code Annotated, Title 63, Chapter 2, Part 1 and Title 68, Chapter 11, Part 15, relative to communications with health care providers.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 63, Chapter 2, Part 1, is amended by adding the following language as a new, appropriately designated section:

(a) Notwithstanding the above provisions or any other law to the contrary, any express or implied contract, covenant or agreement to keep medical information confidential is waived under any of the following circumstances:

(1) The patient, conservator or guardian or other legal representative of the patient gives express consent; or

(2) If the patient is deceased, the spouse of the patient or the executor or administrator of the patient's estate gives express consent; or

(3) When the patient brings a civil action pursuant to §29-26-115, et seq. and the medical information relates to medical treatment in controversy or the damages alleged and is requested by a party to the litigation; or

(4) When a party brings a wrongful death action in regard to the death of the patient that is also a civil action pursuant to §29-26-115, et seq. and the medical information relates to medical treatment in controversy or the damages alleged and is requested by a party to the litigation; or

(5) When records are requested by authorized departmental representative(s) in compliance with §63-1-117.

(b) In a civil action under subdivision (a)(3) and (4) the determination of that information which is discoverable shall be governed by the Tennessee Rules of Civil

Procedure and that information which is admissible shall be governed by the Tennessee Rules of Evidence.

SECTION 2. Tennessee Code Annotated, Section 68-11-1503, is amended by adding the following as a new, appropriately designated subsection:

(d) Notwithstanding the above provisions or any other law to the contrary, any express or implied contract, covenant or agreement to keep medical information confidential is waived under any of the following circumstances:

(1) The patient or guardian or other legal representative of the patient gives express consent; or

(2) If the patient is deceased, the spouse of the patient or the executor or administrator of the patient's estate gives express consent; or

(3) When the patient brings a civil action pursuant to §29-26-115, et seq. and the medical information relates to medical treatment in controversy or the damages alleged and is requested by a party to the litigation; or

(4) When a party brings a wrongful death action in regard to the death of the patient that is also a civil action pursuant to §29-26-115, et seq. and the medical information relates to medical treatment in controversy or the damages alleged and is requested by a party to the litigation; or

(5) When records are requested by authorized departmental representative(s) in compliance with §63-1-117.

(e) In a civil action under subdivision (d)(4) and (5) the determination of that information which is discoverable shall be governed by the Tennessee Rules of Civil Procedure and that information which is admissible shall be governed by the Tennessee Rules of Evidence.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.